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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,309	04/09/2001	Roger Howard Meek	A0008/7004	3449

22832 7590 03/28/2003

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EXAMINER

DESANTO, MATTHEW F


ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 03/28/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	09/720,309	MEEK ET AL.	
	Examiner	Art Unit	
	Matthew F DeSanto	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 9-15, 30, 34 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-29, 31-33, 35-38 and 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in Paper No. 11 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 9-15, 30, 34, 39, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. Claims 17-21, 23-26, and 31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 17, 18, 19, 20, 21, recite the limitation "stem." There is insufficient antecedent basis for this limitation in the claim.
6. Claims 23, recites the limitation "cylindrical portion." There is insufficient antecedent basis for this limitation in the claim.
7. Claims 24, 25, 26, 31 recite the limitation "tapering portion." There is insufficient antecedent basis for this limitation in the claim.

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8. The examiner finds a lack of antecedent basis for many of the structural limitations drawn to the claims due to the amendments made. The examiner suggests that each structural limitation should be checked to make sure there is proper antecedent basis.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 – 8, 16-29, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (USPN 3675658).

11. Taylor discloses a medical device with a proximal end and a distal end, an elastomeric bulb at the proximal end for storing fluid, a fluid acceptor, wherein the acceptor is a balloon, and control device, wherein the control device comprises a plug and wherein the plug comprises a stem, a skirt and an annular part. (Figures 2-6, and entire reference).

12. Claim 1, 6, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosecrans (USPN 3275001).

13. Rosecrans discloses a medical device with a proximal end and a distal end, an elastomeric bulb at the proximal end for storing fluid, a fluid acceptor, wherein the

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acceptor is a balloon, and control device, wherein the control device comprises a plug.
(Figure 1, 3, 5 and entire reference).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-8, 16-29, 31-33, 35-38 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to the claims above, and further in view of Ericson (USPN 3602226).

Taylor discloses the invention except for using a sleeve, which is made of a shrink-wrap material.

Ericson discloses using a sleeve made of a shrink-wrap material to prevent loss of the inflation fluid from the reservoir and to insure adequate inflation of the retaining means by the inflating fluid upon release of said inflating fluid from the reservoir.

(Figures 2-5 and entire reference)

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine Taylor with Ericson because Ericson disclosed the use of a shrink-wrap material to prevent fluid from escaping the reservoir.

Therefore it would have been obvious to combine Taylor with Ericson to obtain the invention as specified in claims 1-8, 16-29, 31-33, 35-38 and 41-43.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.



Matthew DeSanto
Art unit 3763
March 24, 2003



BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700